

STAFFORD COUNTY BOARD OF ZONING APPEALS MINUTES

November 27, 2007

The regular meeting of the Stafford County Board of Zoning Appeals (BZA) on Tuesday, November 27, 2007 was called to order with the determination of a quorum at 7:05 p.m. by Chairman Cecelia Kirkman in the Board of Supervisors Chambers in the Stafford County Government Center. Ms. Kirkman introduced the Board members and staff and explained to the public present, the purpose, function and process of the Board of Zoning Appeals. She asked the members of the public who planned to speak at this meeting to please stand and raise their right hand, swearing or affirming to tell the truth.

Ms. Kirkman said the By-Laws of this Board stated the applicant was allowed up to ten minutes to state their case, the other speakers were allowed up to three minutes to testify, and the applicant was allowed up to three minutes for rebuttal.

Members Present: Cecelia Kirkman, Julie Rutledge, Steven Beauch, Larry Ingalls, John Overbey, and Ernest Ackermann

Members Absent: Angelo Amador

Staff Present: Rachel Hudson, Zoning Administrator
Melody Musante, Zoning Technician
Ashley Gregori, Recording Secretary

Declarations of Disqualification

Mr. Ingalls stated his company was associated with Leming & Healy but he had not worked on this project and he could render a fair judgment.

Mrs. Rutledge stated regarding application V07-2700357, her company and Leming & Healy sometimes share clients, but she has not worked on this project. She stated she could render a fair decision.

PUBLIC HEARINGS

SE07-12/2700602 – KAREN SULLIVAN - Requests a Special Exception per Stafford County Code, Section 28-273, “Nonconforming Structures or Residential Buildings”, to allow an addition to an existing nonconforming single family dwelling on Assessor’s Parcel 37-73A. The property is zoned A-1, Agricultural, located at 880 Mountain View Road.

Mrs. Musante stated the application, application affidavit, a plat, plans, tax map, and vicinity map was included in the BZA package. She stated the applicant was requesting a Special Exception to construct an addition to an existing single-family dwelling.

Mr. Ingalls asked if the Land Use Plan was the same as the Comprehensive Plan.

Mrs. Musante stated yes.

Karen Sullivan stated the proposed addition was on the rear of the existing structure and would not increase the encroachment.

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Ms. Rutledge asked if the proposed addition was visible from the front of the house.

Ms. Sullivan stated no.

Ms. Rutledge asked how many levels the proposed addition would be.

Ms. Sullivan stated the addition was one level.

Ms. Rutledge asked if there would be aluminum siding.

Ms. Sullivan stated the siding would be a neutral colored aluminum.

Motion:

Mr. Overbey made the motion for approval.

Ms. Rutledge seconded. She thanked the applicant for a thorough application.

Vote:

Motion to approve passed 6-0

Mr. Beauch – yes

Ms. Rutledge – yes

Mr. Ingalls - yes

Ms. Kirkman – yes

Mr. Ackermann - yes

Mr. Amador - absent

Mr. Overbey – yes

UNFINISHED BUSINESS

VO7-2/2700357 - BOBBY L & G LOUISE CRISP - Requests a Variance from Stafford County Code, Section 28-24(8)(c) "Permitted Encroachments", to allow an encroachment of an existing deck, on Assessor's Parcel 54A-1D-9. The property is Zoned R-1, Suburban Residential, located at 1019 Julian Drive, Highland Home Subdivision.

Ms. Rutledge stated she disagreed that Item 2 was Unfinished Business.

Mr. Overbey stated he agreed that Item 2 was still considered a part of the Public Hearing.

Motion:

Ms. Rutledge made a motion to hear Item 2 as a Public Hearing.

Mr. Overbey seconded.

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Ms. Kirkman stated the Public Hearing was closed.

Ms. Rutledge stated, in her opinion, Item 2 should have been listed as a Public Hearing.

Mr. Ingalls stated he almost agreed with Ms. Kirkman.

Mrs. Musante stated the photographs presented to the Board were taken in November by Art Singer. She stated the deck was 3.8 feet from the property line and only one panel was removed. She stated an aerial photograph and Commissioner of Revenue records were provided to the Board.

Mr. Ingalls asked if the width of the deck was measured.

Mrs. Musante stated she could not answer that.

Mr. Ingalls stated, in his opinion, the whole deck has been shortened and the latticework has been put back up. He stated it looked as if 2 or 3 feet were removed from the deck.

Ms. Kirkman asked how many feet was the applicant requesting in the variance.

Ms. Rutledge asked if any additional information was received from the applicant.

Ms. Hudson stated she received a letter from Leming and Healy, requesting a determination if the structure was legally non-conforming. She stated the structure would be grandfathered to the 1978 Zoning Ordinance, which did not have any provisions regarding encroachments. She stated encroachments were addressed in the 1986 Zoning Ordinance.

Mr. Ackermann asked if the photographs were taken by the applicant.

Mrs. Musante stated staff took the photographs.

Ms. Kirkman asked if this was complaint based.

Mrs. Musante stated yes.

Ms. Kirkman asked if there was a record of a deck permit.

Ms. Hudson stated the 2000 reassessment records show the structure.

Mr. Ingalls asked Ms. Hudson if she had rendered a decision.

Ms. Hudson stated no.

Mr. Beauch stated there was no information on when the deck was built.

Mrs. Musante stated there were no records.

Mr. Beauch stated, in his opinion, the deck could have been built before code.

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Ms. Kirkman asked when the house was built.

Ms. Hudson stated the house was built in 1964. She stated Mr. Crisp said the deck was on the house when he purchased it.

Debrarae Karnes, Leming and Healy, stated the applicant would like to request deferral.

Ms. Kirkman stated the matter of deferral had already been discussed.

Ms. Rutledge stated not all the BZA members were present and the applicant had the right to request a deferral.

Ms. Kirkman read the by-laws.

Ms. Rutledge stated a definitive vote was not taken.

Ms. Kirkman stated the BZA had taken a definitive vote. She stated she would like to have a recess to look at the State Statute. She asked Ms. Karnes if she had a copy of the State Statute.

Ms. Rutledge stated the proceedings should be tabled, as requested by the applicant.

Ms. Kirkman stated that was out of order.

Ms. Rutledge stated it was important to have all the members present. She stated it was prudent to have to know who put the stakes in to mark the property lines.

Ms. Kirkman asked Ms. Hudson when she would make a determination.

Ms. Hudson stated she had just received the request for determination yesterday.

Ms. Kirkman asked how the determination would help the BZA.

Ms. Hudson stated if this was a legal non-conforming structure, then the applicant would not have to come to the BZA.

Mr. Overbey asked if the stakes were on the property line.

Ms. Kirkman asked how the BZA could assess the violation if they were unsure of the property survey.

Ms. Hudson stated the adjacent lot was under construction. She stated the County did not require house location surveys.

Ms. Kirkman asked the applicant if he was willing to provide a survey.

Ms. Karnes stated the County had already relied on the current stakes.

Ms. Kirkman asked if the applicant was willing to accept the existing stakes.

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Ms. Hudson stated the issue was the deck.

Ms. Rutledge asked why a Variance was required.

Ms. Hudson stated there was no record of when the deck was built.

Ms. Rutledge stated the applicant said the deck was there when he purchased the home.

Ms. Kirkman asked what the setbacks were.

Mr. Ingalls stated the house was built prior to zoning.

Ms. Karnes stated the state law states the BZA has 90 days to render a decision. She stated the BZA in Fairfax took 500 days to render a decision. She stated the applicant was requesting a deferral.

Mr. Beauch stated he would not be able to attend the January or February meetings.

Mr. Ingalls stated the law allows the BZA 90 days to render a decision. He stated, in his opinion, a definitive vote was a yes or no decision on the Variance request.

Mr. Overbey stated he agreed with Mr. Ingalls

Mr. Beauch stated he agreed with Mr. Ingalls as well.

Motion:

Mr. Beauch made a motion to table Item 2 to January 2008.

Mr. Overbey seconded.

Vote:

The motion to table passed 6-0

Mr. Beauch – yes

Ms. Rutledge – yes

Mr. Ingalls - yes

Ms. Kirkman – yes

Mr. Ackermann - yes

Mr. Amador - absent

Mr. Overby – yes

Mr. Overbey stated this was another good case for having alternate BZA members.

Mr. Ackermann asked Ms. Hudson to check if this was a legal non-conforming structure or not.

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Ms. Kirkman asked Ms. Hudson to obtain a copy of the deed.

Ms. Kirkman stated there were conflicting provisions in the by-laws and they could use some refinement. She stated a sub-committee should look over the by-laws.

Mr. Ackermann stated that was a good idea.

REPORT BY ZONING ADMINISTRATOR

Ms. Hudson stated on December 17, 2007 Sunshine Homes Variance Case is on the Circuit Court agenda to order the Writ of Certiorari.

Ms. Kirkman asked how many cases were scheduled for the January 22, 2008 meeting.

Mrs. Musante stated there were three cases tentatively scheduled for the January meeting.

ADOPTION OF MINUTES

None

OTHER BUSINESS

Mr. Ackermann stated he would prefer advertisements, agendas, and other letters be delivered through email.

The remaining BZA members agreed.

ADJOURNMENT

Motion:

Mr. Overbey made a motion to adjourn.

Mr. Ackermann seconded.

The meeting was adjourned at 8:21 p.m.

ACH

Approved: _____ Date: _____
Rachel T. Hudson, Zoning Administrator